

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff(s),

v.

MARCO ANTONIO REYES,

Defendant(s).

Case No. 2:12-cr-00076-JAD-NJK

ORDER

(Docket No. 79)

On June 8, 2017, Defendant filed a notice of assertion of right regarding shackling. Docket No. 77. The notice relates to the issuance of the *en banc* decision in *United States v. Sanchez-Gomez*, 859 F.3d 649 (9th Cir. 2017).¹ On June 13, 2017, the Government moved to strike that notice, arguing that it mischaracterizes the Ninth Circuit's decision. Docket No. 79.² Defendant filed a response. Docket No. 81. The Government filed a reply. Docket No. 82. These filings are not tethered to any particular hearing, shackling request, or shackling determination. There is no live justiciable dispute before the Court.

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¹ On June 16, 2017, the Ninth Circuit entered a 90-day stay of the issuance of the mandate.

² The Government also argues that the notice is procedurally improper in that it is actually a motion. *See* Docket No. 79 at 1-2. The Court need not weigh in on that issue. While the Court has inherent authority to strike improperly filed documents, it is generally reluctant to do so absent a showing that the movant is prejudiced by the existence of the filing on the docket or that striking the filing would further the overall resolution of the action. *See, e.g., Benson v. Nevada*, 2017 U.S. Dist Lexis 52095, at *2 (D. Nev. Apr. 4, 2017). No such showing has been made here.

1 Accordingly, the motion to strike is **DENIED** without prejudice to the parties addressing the issues
2 at an appropriate time if necessary.

3 IT IS SO ORDERED

4 Dated: July 21, 2017

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NANCY J. KOPPE
United States Magistrate Judge